

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #1	CCRB Case #: 201602273	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/18/2016 12:33 AM	Location of Incident: Sheffield Ave b/t Riverdale and New Lots Ave's; en route to & at 75 Pct; en route to Brookdale Hosp.	Precinct: 75	18 Mo. SOL 9/18/2017	EO SOL 9/18/2017	
Date/Time CV Reported Fri, 03/18/2016 10:48 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/18/2016 10:48 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christopher Walsh	23571	951413	075 PCT
2. SGT Henry Daverin	03631	945645	075 PCT
3. POM Tony Cuoco	17359	950261	075 PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Solomito	25805	951284	075 PCT
2. POM Melchor Alban	08328	939851	075 PCT
3. POM James Seder	06788	947479	075 PCT
4. POM Michael Seiger	16689	952225	075 PCT
5. POM John Lane	28663	944103	075 PCT
6. POM Donald Perceval	01031	942337	075 PCT
7. POM Frank Ingrao	31014	946495	075 PCT
8. POM Giovanni Fini	17137	946988	075 PCT
9. POM Michael Kaminsky	05135	944689	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Henry Daverin	Abuse: At the intersection of Sheffield Avenue and Riverdale Avenue in Brooklyn, Sergeant Henry Daverin stopped the vehicle in which an individual was an occupant.	
B.POM Christopher Walsh	Abuse: At the intersection of Sheffield Avenue and Riverdale Avenue in Brooklyn, Police Officer Christopher Walsh stopped the vehicle in which an individual was an occ	

Officer(s)	Allegation	Investigator Recommendation
C.POM Tony Cuoco	Abuse: At the intersection of Sheffield Avenue and Riverdale Avenue in Brooklyn, Police Officer Tony Cuoco stopped the vehicle in which an individual was an occupant.	
D.POM Tony Cuoco	Abuse: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Tony Cuoco stopped § 87(2)(b)	
E.POM Tony Cuoco	Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Tony Cuoco used physical force against § 87(2)(b)	
F.POM Tony Cuoco	Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Tony Cuoco used physical force against § 87(2)(b)	
G.SGT Henry Daverin	Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Sergeant Henry Daverin used physical force against § 87(2)(b)	
H. An officer	Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, an officer used physical force against § 87(2)(b)	
I. An officer	Abuse: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, an officer questioned § 87(2)(b)	
J. An officer	Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, an officer used physical force against § 87(2)(b)	
K.POM Christopher Walsh	Abuse: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Christopher Walsh questioned § 87(2)(b)	
L.POM Christopher Walsh	Discourtesy: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Christopher Walsh spoke discourteously to § 87(2)(b)	
M. An officer	Discourtesy: En route to the 75th Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	
N.SGT Henry Daverin	Abuse: At the 75th Precinct stationhouse, Sergeant Henry Daverin strip-searched § 87(2)(b)	
O.POM Christopher Walsh	Abuse: At the 75th Precinct stationhouse, Police Officer Christopher Walsh strip-searched § 87(2)(b)	
P.POM Christopher Walsh	Discourtesy: At the 75th Precinct stationhouse, Police Officer Christopher Walsh spoke discourteously to § 87(2)(b)	
Q.POM Tony Cuoco	Discourtesy: En route to § 87(2)(b), Police Officer Tony Cuoco spoke discourteously to § 87(2)(b)	

Case Summary

§ 87(2)(g)

§ 87(2)(b) filed this complaint on behalf of her son, § 87(2)(b) on March 18, 2016. On March 18, 2016, at approximately 12:33 AM, § 87(2)(b) his friends § 87(2)(b) and § 87(2)(b) and several other unidentified individuals arrived at the intersection of Sheffield Avenue and Riverdale Avenue, in Brooklyn. They were in a black Honda SUV and had just come from a party in South Brooklyn. Among the unidentified occupants was the vehicle's driver. § 87(2)(b) sat in the front passenger's seat. The vehicle was parked next to a fire hydrant. As § 87(2)(b) and the unidentified others sat in the vehicle, Sgt. Henry Daverin, PO § 87(2)(b) Walsh, and PO Tony Cuoco of the 75th Precinct Anti-Crime team stopped the vehicle (**Allegations A, B, and C**).

§ 87(2)(b) and the vehicles' other occupants fled from the vehicle and scattered. Sgt. Daverin, PO Walsh, and PO Cuoco pursued § 87(2)(b) Southbound on Sheffield Avenue. PO Cuoco stopped § 87(2)(b) (**Allegation D**) and took § 87(2)(b) to the ground (**Allegation E**). The Anti-Crime officers requested assistance, and numerous other uniformed and plainclothes units responded to the scene. PO Michael Kaminsky and PO Giovanni Fini of the 75th Precinct secured the abandoned SUV. Meanwhile, PO Cuoco and Sgt. Daverin used physical force against § 87(2)(b) while subduing him and placing him in handcuffs (**Allegations F and G**). After § 87(2)(b) was placed in handcuffs, an officer allegedly struck him multiple times in the face and back (**Allegation H**). During the struggle, an officer allegedly said, "Take out the gun. Where is the gun at?" (**Allegation I**). An officer then allegedly dragged § 87(2)(b) several feet across the sidewalk (**Allegation J**). § 87(2)(b) was then placed in the rear of an RMP. PO Walsh allegedly asked, "Where's the fucking gun, asshole?" (**Allegations K and L**) and then said to § 87(2)(b) "Cut the crap, asshole" (also **Allegation L**).

PO Frank Ingrao and PO Donald Perceval of the 75th Precinct, who had responded during the incident, transported § 87(2)(b) to the 75th Precinct stationhouse. En route, § 87(2)(b) told the officers that he did not feel well and needed to visit a hospital. An officer allegedly responded, "Shut the fuck up, asshole (**Allegation M**). Upon arrival at the stationhouse, § 87(2)(b) was lodged in a cell on the empty side of the cell area which was normally occupied by female prisoners. There, Sgt. Daverin and PO Walsh allegedly strip-searched him (**Allegations N and O**).

When PO Walsh appeared in the cell area, § 87(2)(b) again requested medical attention. PO Walsh allegedly said, "Shut the fuck up" (**Allegation P**). Subsequently, § 87(2)(b) and § 87(2)(b) responded to the 75th Precinct stationhouse to attend to § 87(2)(b)'s abrasions. They transported § 87(2)(b) to § 87(2)(b), and

PO Cuoco escorted § 87(2)(b) En route to the hospital, § 87(2)(b) asked if he could visit § 87(2)(b). PO Cuoco allegedly responded, “That’s too far. Fuck that” (**Allegation Q**). § 87(2)(b) s abrasions were treated at § 87(2)(b), and he was then returned to the 75th Precinct stationhouse. The following afternoon he was transported to Brooklyn Central Booking.

After § 87(2)(b) was arrested, it was determined that the vehicle he was riding in had been reported as stolen. The keys to the vehicle – recovered from § 87(2)(b) s person, according to a criminal court complaint signed by PO Walsh (Board Review 01) – had been reported as stolen during a burglary occurring one week prior to the incident, along with the vehicle itself. Also recovered from the vehicle and § 87(2)(b) s person were a Rolex watch, necklaces, rings, an iPhone, a laptop, and two credit cards which were also reported as stolen during the commission of the aforementioned burglary. As a result, § 87(2)(b) was re-arrested at the 75th Precinct stationhouse. He was charged with § 87(2)(b), Criminal Possession of Stolen Property in the Third, Fourth, and Fifth Degrees, § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b).

There is no video associated with this case.

Mediation, Civil and Criminal Histories

- Because § 87(2)(b) was arrested, this complaint was deemed unsuitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
- On July 11, 2016, the Office of the Comptroller informed the undersigned that no notice of claim has been filed in regards to this incident.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b)
- PO Walsh, who has been a member of the NYPD for four years, has been involved in two other CCRB cases. In CCRB Case #201603830, is alleged that PO Walsh took § 87(2)(b) to the ground and said, “Fuck that.” That case is still open. In CCRB Case #3976 it is alleged that PO Walsh stopped three males. That case is still open.
- Sgt. Daverin, who has been a member of the NYPD for eight years, has been a subject in sixteen other CCRB cases. In case #201209949 it was alleged that Sgt. Daverin kicked § 87(2)(b) in the chest. That complaint was withdrawn. In case #201307025 it was alleged that Sgt. Daverin used unspecified physical force against § 87(2)(b) That case was truncated. In case #201400853 it was alleged that Sgt. Daverin punched § 87(2)(b) That allegation was unsubstantiated. In case #201403428 it was alleged that Sgt. Daverin authorized a stop. That allegation was unsubstantiated. In case

- #201406576 it was alleged that Sgt. Daverin punched § 87(2)(b). That allegation was unsubstantiated. In case #201507303 it was alleged that Sgt. Daverin placed his knee on the back of § 87(2)(b) who had been taken to the ground. That case was truncated. In case #201602008 it is alleged that Sgt. Daverin referred to § 87(2)(b) as an “asshole” and used the term “bullshit.” That case is still open. In case #201602020 it was alleged that Sgt. Daverin stopped a vehicle. That allegation was unsubstantiated. In case #201603830 it is alleged that Sgt. Daverin used unspecified physical force and said to § 87(2)(b) “Fuck that.” That case is still open. In case #2016502623, allegations that Sgt. Daverin frisked § 87(2)(b) searched a vehicle, and refused to provide his name and shield number were substantiated. In CCRB Case #3976 it is alleged that Sgt. Daverin stopped three males. That case is still open. No other allegations made against him have been substantiated.
- PO Cuoco, who has been a member of the NYPD for four years, has been a subject in two other CCRB cases. In case #201507017 it was alleged that PO Cuoco used unspecified physical force against § 87(2)(b). That case was truncated. In case #201602020 it was alleged that PO Cuoco stopped a vehicle. That allegation was unsubstantiated. No allegations made against PO Cuoco have been substantiated.

Potential Issues

- § 87(2)(b) (Board Review 02 through 04) stated that after he was placed in handcuffs, he saw civilians standing on a nearby balcony, and he saw the flash light of a phone pointed toward him and the officers. He believed that a bystander was recording a video of the incident. § 87(2)(b) however, was unable to identify which building’s balcony he saw the individuals standing on.
- Letters were mailed to § 87(2)(b) and § 87(2)(b) on May 2, 2016. § 87(2)(b) provided a phone statement on May 4, 2016 (Board Review 05), and stated that a friend, whom he was unwilling to name and for whom he refused to provide contact information, had access to a video of the arrest. § 87(2)(b) stated that he would provide this information at a later date. § 87(2)(b) stated on May 9, 2016 (Board Review 06), that a friend, whom he was also unwilling to name, had spoken to an unidentified woman who had recorded a video of the incident. § 87(2)(b) stated that he might be able to provide further information at a later date. On May 17, 2016, voicemail messages were left for § 87(2)(b) and § 87(2)(b) requesting that they contact the undersigned in regards to the aforementioned incident video. On May 25, 2016, the undersigned reached § 87(2)(b) who stated that he had no further information about the video and would contact the undersigned if he learned anything new. The same day, the undersigned again spoke with § 87(2)(b) who stated that he knew someone who could provide video of the incident, but that he did not have access to the video himself. He was again unwilling to provide a name or other contact information for the individual who had the video. § 87(2)(b) stated that he would contact the undersigned when he had access to the video. On May 31, 2016 the undersigned left a voicemail message for § 87(2)(b) requesting an update on the supposed video. As of the writing of this report neither § 87(2)(b) nor § 87(2)(b) has contacted the undersigned in order to provide any information about the video of the incident.

Findings and Recommendations

Allegations not pleaded:

- Abuse of Authority: a refusal to obtain medical treatment is not pleaded. § 87(2)(b) alleged that when he informed officers both en route to the 75th Precinct stationhouse and at the 75th Precinct stationhouse that he wanted medical attention, the officers verbally dismissed his requests. However, as mentioned above, § 87(2)(b) was later transported to § 87(2)(g), where he was treated for minor injuries.

Allegation A—Abuse of Authority: At the intersection of Sheffield Avenue and Riverdale Avenue in Brooklyn, Sergeant Henry Daverin stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B—Abuse of Authority: At the intersection of Sheffield Avenue and Riverdale Avenue in Brooklyn, Police Officer Christopher Walsh stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation C—Abuse of Authority: At the intersection of Sheffield Avenue and Riverdale Avenue in Brooklyn, Police Officer Tony Cuoco stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed Among § 87(2)(b) Sgt. Daverin (Board Review 07), PO Walsh (Board Review 08), and PO Cuoco (Board Review 09) that Sgt. Daverin, PO Walsh, and PO Cuoco stopped the vehicle in which an unidentified individual – the driver of the SUV – was an occupant. § 87(2)(b) stated he was unfamiliar with the driver and could not provide any identifying information. § 87(2)(b) refused to identify the driver and § 87(2)(b) denied that he was ever in the vehicle with § 87(2)(b) (although § 87(2)(b) stated that they both were). It is further undisputed among § 87(2)(b) and these three officers that when the vehicle, a black 2016 Honda Pilot, arrived at the intersection of Sheffield Avenue and Riverdale Avenue, in Brooklyn, it was parked immediately adjacent to a fire hydrant. According to the officers, they were seated in an RMP standing approximately 100 feet from the SUV. PO Walsh was seated in the driver's seat, Sgt. Daverin sat in the front passenger seat, and PO Cuoco was seated in the rear. They each observed the vehicle to be occupied by multiple individuals and to be parked next to a fire hydrant.

The officers testified that following this observation, one of the officers performed a computer check of the vehicle's license plate number on a department-issued mobile phone. None of the officers recalled specifically who performed this computer check or who announced the result. According to Sgt. Daverin, the check revealed the vehicle associated with the license plate number in question – § 87(2)(b), according to the property vouchers (Board Review 10) and the result of a NYS Troopers check for computer checks performed on March 18, 2016 (Board Review 11) – had been reported as stolen. According to PO Walsh and PO Cuoco, the computer check revealed that the make, model, and description of the SUV did not match those of the vehicle associated with the license plate number in question.

The criminal court complaint for § 87(2)(b)'s initial arrest (Board Review 01), signed by PO Walsh, states that the SUV was observed to have a New Jersey license plate. However, as mentioned above, the property vouchers for the arrest reveal that the vehicle bore license plate number § 87(2)(b)—a New York plate. PO Walsh, Sgt. Daverin, and PO Cuoco were shown all of the relevant documents, but were unable to account for this discrepancy. Regardless, a UF-61 filed with the 72nd Precinct reveals that a black 2016 Honda Pilot bearing New York State license plate number § 87(2)(b) was reported stolen on March 11, 2016—one week prior to this incident (Board Review 12). § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

Following the result of the computer check, the officers resolved, collectively, to conduct a vehicle stop in order to inquire about the reason for the result of the computer check. PO Walsh, the RMP's operator, activated the RMP's lights and pulled the RMP forward, behind the SUV.

According to *People v. Ulerio, NY Slip Op 51461(U) (N.Y. Misc. 2003)* (Board Review 13), officers may stop a vehicle given reasonable suspicion that a crime has been committed, is being committed, or is about to be committed.

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Allegation D—Abuse of Authority: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Tony Cuoco stopped § 87(2)(b)

Allegation E—Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Tony Cuoco used physical force against § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) testified that when the SUV arrived at the intersection of Riverdale Avenue and Sheffield Avenue, three individuals exited the vehicle and departed, but § 87(2)(b) and three other individuals remained inside the vehicle. As they sat inside the SUV, a black sedan drove by them slowly. The sedan's windows were partially rolled down and § 87(2)(b) saw someone looking out of the window at the SUV. One of the other occupants said that they thought the individuals in the sedan might be someone they had "trouble" with. § 87(2)(b) and the three other individuals remained inside the SUV for two more minutes. § 87(2)(b) then began to exit the SUV. As he did so, the sedan returned, having apparently driven around the block. § 87(2)(b) then heard a loud noise, as if something struck the SUV. The SUV's other three occupants opened their doors and fled from the SUV. § 87(2)(b) was confused and frightened, so he began to run southbound along Sheffield Avenue. He did not see any members

of the NYPD as he ran. He did not know that the individuals in the sedan were members of the NYPD and believed they were dangerous. As he ran, § 87(2)(b) heard a male voice behind him yell, “Stop! Stop!” The man yelling did not identify himself as a member of the NYPD.

Suddenly, PO Cuoco appeared — § 87(2)(b) did not know from where — and took hold of § 87(2)(b) § 87(2)(b) s right shoulder. § 87(2)(b) did not know then that PO Cuoco, who was in plainclothes, was a member of the NYPD. PO Cuoco said, “You’re being detained” and then, “I’m NYPD.” PO Cuoco showed § 87(2)(b) a silver shield. § 87(2)(b) asked, “What am I detained for?” and PO1 said, “Until I figure out what’s going on. Stay here”. § 87(2)(b) was confused about what was happening and did not believe he had committed any crime. PO Cuoco and § 87(2)(b) then saw another individual — § 87(2)(b) did not know who — jump over a nearby fence. PO Cuoco ran away from § 87(2)(b) toward the individual who had jumped over the fence. § 87(2)(b) began to walk quickly, continuing southbound on Sheffield Avenue. PO Cuoco then tackled § 87(2)(b) from behind. § 87(2)(b) landed on his right elbow, which he scraped on the pavement. § 87(2)(b) s face also made contact with the pavement, and he scraped the center of his forehead and the skin of both eyebrows.

PO Cuoco, Sgt. Daverin, and PO Walsh testified that when PO Walsh activated the RMP’s lights and pulled the RMP up behind the SUV, the SUV’s numerous occupants immediately fled from the vehicle and scattered in all directions. § 87(2)(b) to whom they all had a clear line of sight, fled southbound on Sheffield Avenue. PO Cuoco and Sgt. Daverin gave chase on foot, and PO Walsh pursued in the RMP. According to PO Walsh, he heard Sgt. Daverin and PO Cuoco yelling, “Stop” and, “Police” while they pursued § 87(2)(b) Sgt. Daverin stated that he did not give § 87(2)(b) any verbal commands, but he did not recall if PO Cuoco did so. PO Cuoco, for his part, stated that he repeatedly yelled for § 87(2)(b) to stop. According to the officers, § 87(2)(b) did not stop or appear to respond to these commands. PO Cuoco caught up to § 87(2)(b) first and tackled him, from behind, to the ground. PO Walsh’s line of sight was obscured by parked cars and he did not see how § 87(2)(b) s body made contact with the ground. Sgt. Daverin, who was roughly ten feet behind PO Cuoco, also did not see specifically how § 87(2)(b) s body made contact with the ground. PO Cuoco did not know if § 87(2)(b) § 87(2)(b) sustained any injury from being tackled to the ground.

The investigation obtained § 87(2)(b) s medical records from § 87(2)(b), where he was treated between § 87(2)(b) (Privileged Documents). According to these records, § 87(2)(b) sustained “superficial abrasion and skin road rash while resisting arrest.” He did not sustain any other injury during the course of this incident.

According to *People v. De Bour 4d N.Y.2d 210(1976)* (Board Review 14) officers may forcibly stop an individual given reasonable suspicion that a crime has been committed, is being committed, or is about to be committed. Further, according to *People v. Murrell, 2008 NY Slip Op 50325U* (Board Review 15), if a police officer has no individualized suspicion that a person is engaged in criminal activity, that person's flight will not provide the reasonable suspicion necessary to justify pursuit. However, the finding in *Murrell* continues that flight can create the reasonable suspicion required to justify pursuit only if the officer already has a founded suspicion that the suspect is engaged in some criminal conduct.

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As above, according to *De Bour*, officers may forcibly stop § 87(2)(b) given reasonable suspicion of criminality. Further, according to *NYPD Patrol Guide Procedure 203 -11*, an officer must use the minimum force necessary to effectuate a lawful police action (Board Review 16).

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Allegation F—Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Tony Cuoco used physical force against § 87(2)(b)

Allegation G—Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Sergeant Henry Daverin used physical force against § 87(2)(b)

According to § 87(2)(b) after PO Cuoco tackled him, PO Cuoco immediately pulled § 87(2)(b)'s left arm behind his back and placed a handcuff on it. PO Cuoco placed his knee on § 87(2)(b)'s back and attempted to pull § 87(2)(b)'s right arm behind his back as well. § 87(2)(b) yelled, "Stop! Stop! You're hurting me!" § 87(2)(b) kicked his legs, flailed his right arm, and attempted to pull his left arm from behind his back. PO Cuoco told § 87(2)(b) to stop moving but § 87(2)(b) continued to struggle. § 87(2)(b) then felt both of PO Cuoco's knees on his back. PO Walsh and Sgt. Daverin joined the struggle. PO Walsh pinned § 87(2)(b)'s face to the ground with either one or both of his hands. One of the officers struck § 87(2)(b) on the right side of the face five or six times, and approximately twenty times in the back. § 87(2)(b) also felt a boot on his upper right arm and right elbow, holding down the arm, which he was attempting to pull away from the officers. § 87(2)(b) yelled, "Y'all hurting

me!” multiple times while he was being struck. § 87(2)(b) could not see which officer was hitting him. § 87(2)(b)'s right wrist was then placed in the remaining handcuff. § 87(2)(b) estimated that the struggle lasted roughly five minutes.

According to PO Walsh, when he stopped and exited the RMP, he approached § 87(2)(b) PO Cuoco, and Sgt. Daverin, who were struggling on the sidewalk. § 87(2)(b) was flailing his arms, kicking his feet, and generally trying to push the officers off of him. PO Walsh did not recall if § 87(2)(b) attempted to strike the officers. PO Cuoco and Sgt. Daverin were attempting to pull § 87(2)(b)'s hands behind his back in order to place him in handcuffs. Both PO Cuoco and Sgt. Daverin were giving § 87(2)(b) verbal commands to give up his hands. Both officers said that they were police officers. During this struggle, PO Cuoco and Sgt. Daverin each gave approximately ten to fifteen such commands. PO Walsh joined the struggle for approximately ten seconds. He too tried to take hold of § 87(2)(b)'s hands. He did not strike § 87(2)(b). He did not remember if PO Cuoco or Sgt. Daverin struck § 87(2)(b). PO Walsh may have placed his knee on some part of § 87(2)(b)'s body to try to control him, but he did not remember specifically if he did so or where on § 87(2)(b)'s person this might have occurred. PO Walsh considered this to be a standard technique used in order to pin someone to the ground and so he believed it was possible that he did so. PO Walsh, PO Cuoco, and Sgt. Daverin were having difficulty restraining § 87(2)(b) who continued to flail his arms and kicks his legs. PO Walsh did not remember if § 87(2)(b) was positioned on his chest or back.

In the midst of the struggle, Sgt. Daverin told PO Walsh to secure the SUV. PO Walsh left § 87(2)(b) PO Cuoco, and Sgt. Daverin in order to do so. § 87(2)(b) was still resisting when he departed from where the struggle was taking place. PO Walsh returned to the intersection of Sheffield Avenue and New Lots Avenue in the RMP and there secured the SUV. PO Walsh reported the incident over the air and waited near the SUV for between two and three minutes. From near the SUV, he watched as the struggle between PO Cuoco, Sgt. Daverin, and § 87(2)(b) continued. As he watched, Sgt. Daverin took his radio in his hand and appeared to be speaking into it, and then § 87(2)(b) knocked the radio from Sgt. Daverin's hand. § 87(2)(b) continued to kick his feet and flail his arms. At other times he appeared to be lying on his arms. While PO Walsh watched from the corner, PO Cuoco and Sgt. Daverin did not successfully place § 87(2)(b) in handcuffs.

A marked sector arrived at the corner and secured the SUV. PO Walsh then returned to the scene of the struggle, which was still ongoing. He joined Sgt. Daverin and PO Cuoco in attempting to restrain § 87(2)(b). He did not remember if he or any other officer struck § 87(2)(b). No officer kicked § 87(2)(b). PO Walsh knelt on § 87(2)(b)'s feet to prevent him from kicking. Sgt. Daverin and PO Cuoco attempted to pull § 87(2)(b)'s arms behind his back. PO Walsh did not use or witness any other specific application of force. § 87(2)(b) finally tired and the officers successfully pulled his hands behind his back. All officers did so together. An officer then placed § 87(2)(b) in handcuffs.

According to Sgt. Daverin, after PO Cuoco took § 87(2)(b) to the ground, § 87(2)(b) stood up and began to violently resist by swinging his fists at both PO Cuoco and Sgt. Daverin. Sgt. Daverin could not remember how many punches § 87(2)(b) threw, but they were numerous. § 87(2)(b) did not strike Sgt. Daverin but Sgt. Daverin did not know if § 87(2)(b)

§ 87(2)(b) struck PO Cuoco. Both PO Cuoco and Sgt. Daverin attempted to pull § 87(2)(b)'s hands behind his back, but they were unable to take hold of his arms because § 87(2)(b) was swinging at them. Together, Sgt. Daverin and PO Cuoco pulled § 87(2)(b) to the ground a second time. Once they were all on the ground, Sgt. Daverin punched § 87(2)(b) about the face, head, and body, but he did not remember specifically where on § 87(2)(b)'s face, head, or body he struck him. He could not approximate how many times he struck § 87(2)(b). Sgt. Daverin did not believe the punches were effective, as the struggle continued despite them. The officers were still unable to secure § 87(2)(b)'s arms, which he swung and flailed. Sgt. Daverin recalled that § 87(2)(b) was roughly 6'3" and 240 pounds, making it difficult to restrain him. Sgt. Daverin did not know if PO Cuoco punched § 87(2)(b) at all. During the struggle Sgt. Daverin attempted to call for backup on his radio, but § 87(2)(b) knocked Sgt. Daverin's radio from his hand by swinging his arm. The struggle lasted what seemed like a long time to Sgt. Daverin. Sgt. Daverin's only goal during the struggle was to get § 87(2)(b)'s hands behind back, but § 87(2)(b) continued to flail his arms and kick his legs. Sgt. Daverin did not know if he put his knee or foot on any part of § 87(2)(b)'s body to stop him from resisting. Sgt. Daverin did not recall § 87(2)(b) placing his hands under body to keep his hands away from the officers. Sgt. Daverin did not know if PO Walsh ever joined in the struggle. Sgt. Daverin and PO Cuoco struggled with § 87(2)(b) on the ground in this manner for over three minutes. Sgt. Daverin did not use any other force than what is described above.

After Sgt. Daverin and PO Cuoco had struggled with § 87(2)(b) for over three minutes, other units arrived on scene. Both marked and unmarked units arrived. Sgt. Daverin did not remember how many units were there. By the time other officers arrived § 87(2)(b) appeared to be tired from the struggle. Sgt. Daverin was also tired and short of breath. Several other officers—Sgt. Daverin did not remember who or how many—helped to subdue § 87(2)(b) and together the officers pulled § 87(2)(b)'s hands behind his back. Sgt. Daverin did not remember if other officers used any further force to subdue § 87(2)(b) or if they only pulled his hands behind his back. They then placed § 87(2)(b) in handcuffs.

Sgt. Daverin did not know during the struggle that he sustained any injury. However, later, at the stationhouse, Sgt. Daverin began to feel general pain to one of his hands. He did not recall which hand was injured. PO Walsh transported Sgt. Daverin to Jamaica Hospital, where Sgt. Daverin was diagnosed with a bruise but no serious injury. He was at the hospital for a short period of time, but he was unable to approximate with greater specificity. Sgt. Daverin was unwilling to sign a HIPAA form. However, a Line of Duty injury report (Board Review 17) states that during the struggle, § 87(2)(b) "did unexpectedly fall on Sgt. Daverin's hand causing pain, swelling, and a contusion to his right hand." The pertinent AIDED report (Board Review 18) confirms that Sgt. Daverin was removed to a hospital.

PO Cuoco stated that after he took § 87(2)(b) to the ground, Sgt. Daverin caught up to them. § 87(2)(b) on the ground, began to violently resist by punching at both PO Cuoco and Sgt. Daverin, by flailing his arms, by kicking at the officers, by tightening his body, and by attempting to roll back and forth. The ensuing struggle lasted roughly three minutes. PO Cuoco estimated that § 87(2)(b) was 6'0", 240 pounds—as large as PO Cuoco. PO Cuoco did not recall § 87(2)(b) landing any punches on him or on Sgt. Daverin. However, at some point § 87(2)(b) punched Sgt. Daverin's radio from his hand. PO Cuoco believed Sgt. Daverin was attempting to

go over the air and request back up. During the struggle § 87(2)(b) kicked PO Cuoco in the legs but PO Cuoco did not sustain any injury. PO Cuoco did not know if § 87(2)(b) kicked Sgt. Daverin. During the struggle PO Cuoco and Sgt. Daverin attempted to pull § 87(2)(b)'s arms behind his back but § 87(2)(b) would not give his hands up. PO Cuoco struck § 87(2)(b) with a closed fist on the ribs but he did not recall how many times he did so. He did not know if Sgt. Daverin ever struck § 87(2)(b). PO Cuoco did not recall if he struck § 87(2)(b) in the head or face, or anywhere else on his body other than the ribs. His strikes were not effective as § 87(2)(b) continued to struggle, and he and Sgt. Daverin were unable to pull § 87(2)(b)'s arms behind his back. PO Cuoco attempted to pin § 87(2)(b) to the ground with the weight of his body but he did not recall doing so with his feet or knees. He did not recall if Sgt. Daverin did so. During the struggle § 87(2)(b) attempted repeatedly to get back on his feet and several times nearly succeeded in doing so, but Sgt. Daverin and PO Cuoco pulled him back to the ground. PO Cuoco did not recall exactly how they did so. During this struggle PO Cuoco repeatedly yelled, "Give me your hands." Sgt. Daverin also gave similar verbal commands, but § 87(2)(b) did not heed any verbal commands given to him. PO Cuoco did not recall § 87(2)(b) reaching toward his waistband at any point during the struggle.

According to PO Cuoco, while he and Sgt. Daverin continued to struggle with § 87(2)(b) PO Walsh arrived and joined the struggle. PO Walsh assisted PO Cuoco and Sgt. Daverin in subduing § 87(2)(b) but PO Cuoco did not recall if PO Walsh ever struck § 87(2)(b). He did not recall specifically what actions PO Walsh took in order to help restrain § 87(2)(b). Eventually, once the three officers were together, § 87(2)(b) tired and the officers pulled his hands behind his back. Someone placed him in handcuffs but PO Cuoco did not remember who did so. § 87(2)(b) never complained that any officer use force against him after he was placed in handcuffs. After the struggle ended PO Cuoco found that he was short of breath, as the struggle had been so prolonged.

According to PO Perceval (Board Review 19), when he and his partner, PO Ingrao, arrived, they saw Sgt. Daverin, PO Cuoco, and PO Walsh on the ground, struggling with § 87(2)(b). PO Perceval and PO Ingrao exited their RMP and help to detain § 87(2)(b) who was actively resisting arrest. § 87(2)(b) continued to roll on the ground, twist his body, and pull his arms away from the officers. PO Perceval did not remember if § 87(2)(b) ever swung his arms or fists, or struck, or attempted to strike, any officer. PO Perceval did not remember if § 87(2)(b) ever knocked an officer's radio to the pavement. He did not remember how large § 87(2)(b) was. He did not recall if he was concerned by § 87(2)(b)'s size. PO Perceval helped to get § 87(2)(b) into handcuffs but he did not recall specifically what techniques he used other than helping to take hold of § 87(2)(b)'s arms and pulling them behind his back. PO Perceval never struck § 87(2)(b). He never saw any other officer strike § 87(2)(b). During the struggle he and the other officers gave § 87(2)(b) multiple verbal commands to give up his hands. § 87(2)(b) did not stop resisting in response to any verbal commands. PO Perceval believed that PO Ingrao likely joined in the struggle and helped to subdue § 87(2)(b) but he did not specifically remember where PO Ingrao was during the struggle or what PO Ingrao was doing. There were multiple officers involved and he was not paying specific attention to any officer's whereabouts or activity. After PO Perceval joined the struggle it took approximately 30 seconds to a minute for the officers to place § 87(2)(b) in handcuffs.

PO Ingrao (Board Review 20) testified that when they arrived at the incident location, he saw Sgt. Daverin, PO Cuoco, and PO Walsh struggling with § 87(2)(b) who was on the ground, on his chest. The officers were trying to get § 87(2)(b) into handcuffs. One handcuff may already have been applied to § 87(2)(b)'s wrist at that point. PO Ingrao did not remember what specific techniques the officers were using to try to place § 87(2)(b) fully in handcuffs. They tried to grab his arms and pull them behind his back, but he was wriggling his body and pulling his hands away from the officers. He also attempted to hide his hands under his body. PO Ingrao did not see if § 87(2)(b) swung at or kicked at the officers. He did not see if § 87(2)(b) knocked a radio from an officer's hand. PO Ingrao assessed the situation in a matter of moments. He and PO Perceval immediately exited the RMP to assist the officers in subduing § 87(2)(b). PO Ingrao tried to grab § 87(2)(b)'s right arm, which was not in handcuffs. He was unable to grab the arm because § 87(2)(b) was pulling it away. PO Ingrao did not see any officer strike § 87(2)(b). He did not do so himself. He did not see any officer kick § 87(2)(b) and he did not do so. He did not see if any officer placed their foot or knee on § 87(2)(b)'s body to pin him to the ground. As he helped to try to get the other cuff on § 87(2)(b)'s wrist, § 87(2)(b) was fighting and resisting. PO Ingrao's efforts to assist did not succeed, as § 87(2)(b) did not give up his arm. PO Ingrao backed out of the struggle to allow Sgt. Daverin, PO Cuoco, and PO Walsh to subdue § 87(2)(b). He did not recall if PO Perceval continued to assist Sgt. Daverin, PO Cuoco, and PO Walsh or if he also backed away from the struggle. Eventually Sgt. Daverin, PO Cuoco, and PO Walsh successfully placed § 87(2)(b) in handcuffs. PO Ingrao did not recall what they did to achieve placing § 87(2)(b) in handcuffs. He did not recall them using any force other than pulling § 87(2)(b)'s arm behind his back. The struggle ended between thirty seconds and one minute after PO Ingrao and PO Perceval joined.

PO Michael Kaminsky (Board Review 21) and PO Giovanni Fini (Board Review 22) of the 75th Precinct, who secured the abandoned SUV at the intersection of Sheffield Avenue and Riverdale Avenue, testified that they did not witness the struggle at all.

§ 87(2)(b) (Board Review 05), who was with his brother, § 87(2)(b) and two or three other individuals in the vehicle coming from the party, stated that when he and the others fled from the vehicle, § 87(2)(b) lagged behind. An officer tackled § 87(2)(b) to the ground on Sheffield Avenue, approximately halfway between New Lots Avenue and Riverdale Avenue. § 87(2)(b) was standing approximately fifteen yards away. The officer put his knee on § 87(2)(b)'s upper back and struck § 87(2)(b) three or four times with a closed fist in § 87(2)(b)'s upper back or the back of § 87(2)(b)'s head. § 87(2)(b) did not know how many times the officer struck § 87(2)(b) in each location. § 87(2)(b) yelled, "Help, and, "They're arresting me." § 87(2)(b) lay on his stomach and his arms appeared to § 87(2)(b) to be pinned beneath his body. The officer told § 87(2)(b) to stay on the ground and put his hands behind his back. § 87(2)(b) believed § 87(2)(b) could not move his arms because he was pinned to the ground and his arms were underneath him. Almost immediately after § 87(2)(b) was tackled, two other officers joined the struggle. § 87(2)(b) did not see either of these officers strike § 87(2)(b) they both attempted to pull § 87(2)(b)'s arms behind his back. § 87(2)(b) then turned and ran away.

§ 87(2)(b) (Board Review 06) stated that he and his brother, § 87(2)(b) were not in the SUV with § 87(2)(b) § 87(2)(b) had earlier received a text message from § 87(2)(b) informing him that § 87(2)(b) would soon be arriving in the area and he planned to meet him. On Sheffield Avenue between Riverdale Avenue and New Lots Avenue, § 87(2)(b) saw § 87(2)(b) running from a vehicle. An officer chased § 87(2)(b) caught up to him, and tackled him to the ground. § 87(2)(b) began to call for help. § 87(2)(b) did not remember if § 87(2)(b) was on his chest or on his back. The officer struck § 87(2)(b) approximately six times but § 87(2)(b) did not remember where the officer struck § 87(2)(b). The officer was on top of § 87(2)(b) but § 87(2)(b) did not know specifically where the officer made contact with him. § 87(2)(b) was "pinned down." § 87(2)(b) stood across the street but was unable to estimate how far away he stood. He had a clear line of sight to where the officer and § 87(2)(b) were. § 87(2)(b) yelled that he had not done anything. § 87(2)(b) did not remember what § 87(2)(b) was doing with his arms while the officer was on top of him. § 87(2)(b) yelled that he was not fighting back and was not resisting. § 87(2)(b) did not remember if he ever heard the officer or any other officer give § 87(2)(b) any verbal commands. Shortly after the first officer took § 87(2)(b) to the ground, two other officers joined the first. § 87(2)(b) did not see what happened after the second and third officers arrived, as he departed. His brother, § 87(2)(b) remained on the block and watched the incident for longer.

The radio communications pertaining to the incident (Board Review 23) reveal that initially, a male voice over the air says, "5 Crime sergeant" – Sgt. Daverin. There is indecipherable shouting in the background. The dispatcher twice asks the Sgt. Daverin to repeat the message, but there is no response. The dispatcher asks if there is a unit calling 85. A second male voice then goes over the air as "5 Crime" and requests one additional unit. This Anti-Crime officer provides the location as Sheffield and Riverdale. The dispatcher again asks for Crime sergeant, and the second male voice says, "5 Crime, I'm with the Crime sergeant." However, Sgt. Daverin does not go over the air for over five more minutes, when he provides instruction regarding a fleeing suspect.

§ 87(2)(g), § 87(2)(b)
[REDACTED]

As noted above, according to *NYPD Patrol Guide Procedure 203 -11*, an officer must use the minimum force necessary to effectuate a lawful police action (Board Review 16) § 87(2)(g)

Allegation H—Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, an officer used physical force against § 87(2)(b)

§ 87(2)(b) stated that after both of his wrists were placed in handcuffs, an officer struck him approximately seven times in his back and face. He could not specify how many strikes occurred or on which part of his body. § 87(2)(b) was not able to see which officer or officers did this. It is noteworthy that § 87(2)(b) did not initially allege that an officer struck him after he was placed in handcuffs; he did not make this allegation until specifically asked whether any strikes occurred after he was placed in handcuffs.

PO Walsh, Sgt. Daverin, PO Cuoco, PO Perceval, and PO Ingrao all testified that they did not use any manner of force against § 87(2)(b) after he was placed in handcuffs. The officers also testified that they did not witness any other officer use any manner of physical force against § 87(2)(b) after he was placed in handcuffs. PO Kaminsky and PO Fini stated that they did not witness the struggle at all.

As mentioned above, § 87(2)(b) and § 87(2)(b) who witnessed the beginning of the struggle, departed before the struggle was concluded, and therefore were not in a position to witness any strikes which may have occurred after § 87(2)(b) was placed in handcuffs.

§ 87(2)(g)

Allegation I—Abuse of Authority: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, an officer questioned § 87(2)(b)

§ 87(2)(b) alleged that at some point during the struggle—he did not recall exactly when—one of the officers said, “Take out the gun. Where is the gun at?” § 87(2)(b) did not know which officer said this. He did not have a gun or any other weapon on his person.

PO Walsh stated that he did not recall any conversation regarding a gun. He was unaware of any concern among other officers regarding suspicion that § 87(2)(b) might have a gun. PO Walsh had no specific suspicion that § 87(2)(b) had a weapon of any sort. He did not recall any conversation regarding a gun at any point during the incident.

According to Sgt. Daverin, § 87(2)(b) reached toward the rear of his waistband at some point during the struggle. This led Sgt. Daverin to believe that § 87(2)(b) might have a gun on his person. However, Sgt. Daverin did not recall if he or any other officer ever asked § 87(2)(b) about a gun.

PO Cuoco stated that he did not recall § 87(2)(b) reaching toward his waistband at any point during the struggle or after he was placed in handcuffs. PO Cuoco did not have any specific concern that § 87(2)(b) might have a gun or other weapon on his person, before, during, or after the struggle. He feared generally that § 87(2)(b) might have a weapon but his fear was not particularized or related to any specific factor of § 87(2)(b)'s behavior or any information given to him by another officer. He did not ask § 87(2)(b) about a gun and did not witness any officer do so.

PO Perceval stated that he did not have any specific concern that § 87(2)(b) had a gun on his person and he did not learn at any point that any other officer had a specific concern that § 87(2)(b) had a gun. He did not remember any officer asking about a gun at all.

According to PO Ingrao, he did not have any specific concern that § 87(2)(b) was in possession of a gun. However, he later learned that members of the Anti-Crime team believed § 87(2)(b) might have tossed away a gun while he fled from the SUV. PO Ingrao did not recall when or from whom he learned about this. PO Ingrao did not recall if any officer asked § 87(2)(b) about a gun. He did not recall if officers discussed a gun at any point while § 87(2)(b) was still on the scene. PO Ingrao did not recall if § 87(2)(b) ever reached toward his waistband after he was placed in handcuffs.

§ 87(2)(g)

§ 87(2)(g)

Allegation J—Force: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, an officer used physical force against § 87(2)(b)

§ 87(2)(b) stated that after he was placed in handcuffs, an officer dragged him approximately eight feet across the sidewalk, pulling him by his pants leg and t-shirt. The officer dragged him from the building line to the curb, toward the RMP. He was on his right side and his right elbow dragged along the ground. § 87(2)(b) stated that he did not see which officer did this. As mentioned above, § 87(2)(b) believed that he scraped his elbow earlier, when PO Cuoco tackled him to the ground. § 87(2)(b) did not describe any damage to his clothing as a result of being dragged.

PO Walsh stated that after § 87(2)(b) was placed in handcuffs, he and PO Cuoco lifted § 87(2)(b) to his feet, but § 87(2)(b) refused to support his weight fully. The officers supported § 87(2)(b)'s weight and walked him to the RMP. PO Walsh did not recall any officer dragging § 87(2)(b) along the sidewalk after § 87(2)(b) was placed in handcuffs. He did not recall § 87(2)(b) ever complaining about being dragged. He did not recall any use of force whatsoever after § 87(2)(b) was placed in handcuffs. He did not recall § 87(2)(b) making any complaint to that effect.

Sgt. Daverin stated that no one dragged § 87(2)(b) across a sidewalk at any time, but § 87(2)(b) was not compliant with being placed in an RMP. Sgt. Daverin did not recall specifically what § 87(2)(b) did to prevent his being placed in the RMP but he characterized it as minor resistance such as moving his body around. He did not remember if § 87(2)(b) ever went limp and needed to be supported. Officers did not use force to place § 87(2)(b) inside the RMP.

PO Cuoco stated that no one dragged § 87(2)(b) across a sidewalk at any time, but § 87(2)(b) was not compliant when PO Cuoco attempted to place him in the rear of an RMP. § 87(2)(b) braced his feet against the side of the car and tightened his body. PO Cuoco pushed the back of § 87(2)(b)'s knee from behind so that § 87(2)(b)'s leg bent forward and he could not brace himself against the RMP any longer. PO Cuoco did not remember if § 87(2)(b) ever went limp and needed to be supported. Officers did not use any other force to place § 87(2)(b) inside the RMP.

According to PO Perceval, no officer ever dragged § 87(2)(b) across the sidewalk.

PO Ingrao stated that an officer walked § 87(2)(b) to the RMP. § 87(2)(b) walked of his own power and was not dragged across the sidewalk at any point. § 87(2)(b) stiffened his body and refused to enter the RMP. PO Walsh was attempting to place § 87(2)(b) into the

RMP. He eventually succeeded by pushing § 87(2)(b) into the RMP. PO Ingrao did not recall with any greater specificity what PO Walsh did to place § 87(2)(b) inside the RMP.

§ 87(2)(g)

Allegation K—Abuse of Authority: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Christopher Walsh questioned § 87(2)(b)

Allegation L—Discourtesy: On Sheffield Avenue between Riverdale Avenue and New Lots Avenue in Brooklyn, Police Officer Christopher Walsh spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that after he was placed in the rear of an RMP, PO Walsh approached him and asked, “Where’s the fucking gun, asshole?” § 87(2)(b) responded that he did not have any knowledge of a gun or any other weapons. He told PO Walsh that he had only been at a party and was on his way home. PO Walsh responded, “Cut the crap asshole.”

During a follow-up interview on April 6, 2016—one week after § 87(2)(b) initially made the above allegation—§ 87(2)(b) was asked if PO Walsh used profanity toward him before or after additional units responded. In response to this question, § 87(2)(b) asked what profanity PO Walsh had used toward him. He was informed that one week prior, he had alleged that PO Walsh said “Where’s the fucking gun, asshole?” and “Cut the crap asshole.” Once he was informed of the specifics his own allegation, § 87(2)(b) responded that PO Walsh made these statements before additional officers arrived on scene.

PO Walsh denied that he ever made any such statements. § 87(2)(g) PO Walsh stated that he did not recall any conversation regarding a gun. He was unaware of any concern among other officers regarding suspicion that § 87(2)(b) might have a gun. PO Walsh had no specific suspicion that § 87(2)(b) had a weapon of any sort. He did not recall any conversation regarding a gun at any point during the incident.

Sgt. Daverin, PO Cuoco, PO Ingrao, and PO Perceval each testified that they did not witness PO Walsh make either of the above statements or use any profanity toward § 87(2)(b). Further, as discussed above, these officers each stated that they did not recall any officer asking § 87(2)(b) about a gun.

§ 87(2)(g)

Allegation M—Discourtesy: En route to the 75th Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that en route to the 75th Precinct stationhouse, his head was down and he was feeling nauseous. He was swaying back and forth. He told the officers who transported him that he did not feel well and needed to go to the hospital, and an officer said, "Shut the fuck up, asshole." § 87(2)(b) could not see which officer said this because his head was down. He was unable to determine where the voice came from inside the RMP.

§ 87(2)(g) PO Ingrao and PO Perceval transported § 87(2)(b) and PO Walsh to the 75th Precinct stationhouse. PO Perceval was the operator, PO Ingrao was in the front passenger's seat, and PO Walsh and § 87(2)(b) rode in the rear.

PO Walsh stated that he did not recall § 87(2)(b) requesting medical attention en route to the stationhouse. PO Walsh did not say, "Shut the fuck up, asshole." Neither PO Ingrao nor PO Perceval said, "Shut the fuck up, asshole."

PO Perceval did not recall speaking to § 87(2)(b) at all en route to the stationhouse. PO Walsh and § 87(2)(b) spoke en route to the stationhouse but PO Perceval did not recall what was said. § 87(2)(b) was yelling but PO Perceval did not remember what he said. PO Perceval did not use any profanity toward § 87(2)(b). He did not recall PO Ingrao or PO Walsh using any profanity toward § 87(2)(b).

PO Ingrao stated that he did not recall hearing conversation between § 87(2)(b) and PO Walsh en route to the stationhouse. § 87(2)(b) complained loudly but PO Ingrao did not recall what he said specifically. PO Ingrao did not believe PO Walsh or PO Perceval used any profanity toward § 87(2)(b) en route to the stationhouse. PO Ingrao did not use any profanity toward § 87(2)(b).

§ 87(2)(g)

Allegation N—Abuse of Authority: At the 75th Precinct stationhouse, Sergeant Henry Daverin strip-searched § 87(2)(b)

Allegation O—Abuse of Authority: At the 75th Precinct stationhouse, Police Officer Christopher Walsh strip-searched § 87(2)(b)

§ 87(2)(b) stated that when he arrived at the 75th Precinct stationhouse, Sgt. Daverin and PO Walsh initially brought him to the female side of the holding cells, where there were no other prisoners lodged. PO Walsh pulled down § 87(2)(b)'s blue jeans and underwear, so that § 87(2)(b) was naked from the waist down. § 87(2)(b) told the officers that he did not have any drugs and was not a drug dealer, but they responded that this search was “procedure.” PO Walsh told § 87(2)(b) to squat and cough, which he did. No officer made any physical contact with § 87(2)(b) while his pants were down. The officers conducted only a visual search and did not conduct a physical search. The officers did not find anything on § 87(2)(b)'s person as a result of the strip-search. There were no other prisoners nearby. § 87(2)(b) never heard PO Walsh or Sgt. Daverin discuss a strip-search with the desk officer.

§ 87(2)(g) § 87(2)(b) did not include this allegation during his initial verified statement, when he discussed arriving at the stationhouse. During the first statement he discussed what took place at the stationhouse and, in fact, made other allegations of misconduct occurring at the stationhouse (see below). § 87(2)(b) did not allege that he was strip-searched until one week after his initial interview, during a follow-up statement.

PO Walsh stated that PO Ingrao and PO Perceval transported him and § 87(2)(b) to the stationhouse, leaving Sgt. Daverin at the scene of the arrest. Upon arrival at the stationhouse he logged § 87(2)(b) in at the desk, took § 87(2)(b)'s pedigree information, and lodged § 87(2)(b) in a cell. PO Walsh performed another standard search of § 87(2)(b)'s pockets. He reached into § 87(2)(b)'s pockets to make sure that no other items remained and in order and to secure § 87(2)(b)'s property. PO Walsh did not remember if he recovered any other property during that search. He did not remember if any other officer was present when he searched § 87(2)(b). He did not remember strip-searching § 87(2)(b). He did not remember witnessing any officer strip-search § 87(2)(b), and he was the only one who would have done so. PO Walsh did not have any specific concern of any weapon or other contraband that might be on § 87(2)(b)'s person, although § 87(2)(b) continued to grab at the rear of his waist while in the stationhouse. PO Walsh did not know why § 87(2)(b) did so. PO Walsh did not have any specific concern that § 87(2)(b) was hiding any contraband or weapon that would not be accessible via a normal frisk and search of his pockets. PO Walsh did not remember any other officer expressing this sort of concern. He did not recall if any other officer was with him when he lodged § 87(2)(b) in a cell. He did not remember if any other prisoners were in the cell with § 87(2)(b). At the 75th Precinct stationhouse, female and male cells are separated by a wall. PO Walsh did not recall § 87(2)(b) being brought to the female side. PO Walsh did not remember where PO Perceval and PO Ingrao were during this period of time. There was a cell attendant stationed in the cell area but that officer would not have assisted PO Walsh in searching § 87(2)(b) or removing any property from him. The cell attendant would likely have been in the immediate vicinity of the cell where § 87(2)(b) was lodged, and would have been positioned to see and hear what was going on inside of the cells.

PO Cuoco stated that he was present at the stationhouse when § 87(2)(b) was lodged in a cell. PO Walsh, the arresting officer, was also present. PO Cuoco did not remember if any other

officers were with them and § 87(2)(b). Either PO Cuoco or PO Walsh searched § 87(2)(b)'s pockets but PO Cuoco did not remember who did so. § 87(2)(b)'s belt and shoelaces were removed. PO Cuoco did not perform or participate in a strip-search of § 87(2)(b). PO Cuoco did not learn that PO Walsh or any other officer ever strip-searched § 87(2)(b). PO Cuoco was not aware of any specific concern, on his part or the part of any other officer, that § 87(2)(b) might have on his person a weapon, narcotics, or any other contraband that would not be accessible via a standard search of his person. To PO Cuoco's knowledge § 87(2)(b) never complained that any officer strip-searched him.

Sgt. Daverin stated that he remained on scene for approximately forty minutes after § 87(2)(b) was transported to the stationhouse. When he arrived at the stationhouse § 87(2)(b) was already lodged in a cell. Sgt. Daverin did not see § 87(2)(b) in the stationhouse at any point. He did not enter the cell area at all. He did not recall witnessing or learning that any officer ever strip-searched § 87(2)(b) at the stationhouse. Sgt. Daverin believed that if § 87(2)(b) had been strip-searched, this would have been documented in the online arrest-report, in the command log, and in a memo book entry. Sgt. Daverin did not recall giving approval for any officer to strip-search § 87(2)(b). His approval would have been required, as he was the supervisor of the arresting officer, PO Walsh. Sgt. Daverin was not aware of any specific concern on the part of any officer that § 87(2)(b) had on his person any weapon or other contraband which would not have been accessible via a standard search.

According to PO Perceval, only PO Walsh brought § 87(2)(b) into the cells. PO Perceval did not recall ever going into the cell area with PO Walsh or § 87(2)(b). He never learned that any officer strip-searched § 87(2)(b). He never witnessed or learned about any conversation regarding any officer's intention to strip-search § 87(2)(b). He never learned of any officer's suspicion that § 87(2)(b) had a weapon or other contraband on his person which would not be accessible via a standard search. PO Perceval never witnessed or learned about any conversation regarding any such suspicion.

PO Ingrao stated that he, PO Perceval, PO Walsh, and § 87(2)(b) entered the stationhouse and went in front of the desk together, where PO Walsh filled out § 87(2)(b)'s pedigree card. PO Ingrao did not recall any conversation between PO Walsh and the desk sergeant or any other supervisor about strip-searching § 87(2)(b). PO Walsh then brought § 87(2)(b) into the cell area to lodge him. PO Ingrao did not recall if he entered the cell area but he did not have any memory of joining PO Walsh and § 87(2)(b) there. PO Ingrao did not remember if any other officer accompanied § 87(2)(b) and PO Walsh into the cell area. PO Ingrao did not recall witnessing PO Walsh or any other officer strip-search § 87(2)(b). He did not learn about any strip-search. He did not learn that any officer had any concern that § 87(2)(b) had weapons or contraband on his person that would not be accessible via a standard search. He did not witness or learn that any supervisor authorized a strip-search.

PO John Lane of the 75th Precinct, (Board Review 26), the cell attendant at the 75th Precinct stationhouse when PO Walsh lodged § 87(2)(b), stated that he did not recall observing PO Walsh or Sgt. Daverin lodge a prisoner in the cells on March 18, 2016. He did not recall anything unusual occurring during that tour. During his interview PO Lane was shown the arrest photo of § 87(2)(b) and was informed that § 87(2)(b) was lodged in the cells after being

arrested by PO Christopher Walsh, PO Tony Cuoco, and Sgt. Henry Daverin of the 75th Precinct Anti-Crime team, after a vehicle stop. He was also informed that PO Walsh was the arresting officer. PO Lane did not recognize § 87(2)(b). He did not recall witnessing any specific interaction between PO Walsh or PO Sgt. Daverin and any prisoner. PO Lane did not witness any officers discussing a strip search. He did not witness any supervisor authorize a strip search. He did not witness any officer or officers perform a strip search. PO Lane stated that the male and female sides of the 75th Precinct cells are separated, and that the cell attendant is positioned to see both sides, although the cell attendant cannot see into the cells. As the cell attendant, PO Lane would not be included in a conversation as to whether a prisoner should or would be strip searched.

§ 87(2)(g)



The command log entry for § 87(2)(b)'s arrest (Board Review 27) makes no note that § 87(2)(b) was strip-searched. Both online arrest reports prepared in regards to the incident (Board Review 28 and 29) stated that § 87(2)(b) was not strip-searched. A strip-search is not mentioned in any of the above officers' memo books (Board Review 30 to 34).

§ 87(2)(b)'s arrest history (Board Review 35) reveals that was strip-searched—at the 90th Precinct stationhouse with regard to a previous arrest (Board Review 36).

§ 87(2)(g)



§ 87(2)(g)

Allegation P—Discourtesy: At the 75th Precinct stationhouse, Police Officer Christopher Walsh spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that after he was lodged in a cell, he informed PO Walsh that he felt dizzy and wished to be taken to a hospital. PO Walsh responded, “I don’t give a fuck. Stay in the cell until I’m ready to come back and get you.” Another officer, who was seated near the cells and whose responsibility, § 87(2)(b) believed, was to keep watch over the prisoners, was nearby. There were no other prisoners in the cell with § 87(2)(b) and he did not see any other prisoners who were positioned to hear his exchange with PO Walsh.

PO Walsh stated that he did not remember § 87(2)(b) making any medical complaint when he was lodged in a cell. PO Walsh did not say “I don’t give a fuck.” He did not make any statement to that effect. He did not use any profanity at all.

Sgt. Daverin stated that he did not enter the cell area at all, did not witness or learn about any conversation during which § 87(2)(b) requested medical attention, and did not witness or learn that any officer used profanity toward § 87(2)(b) in the stationhouse.

PO Cuoco stated that when § 87(2)(b) was lodged in a cell, he requested medical attention. PO Cuoco did not recall specifically from whom § 87(2)(b) requested medical attention or what the specific nature of his complaint was. After § 87(2)(b) requested medical attention, an officer – PO Cuoco did not recall who – called for EMS, and EMS personnel responded to the stationhouse to treat § 87(2)(b) in the cell area. However, PO Cuoco did not witness any officer use profanity toward § 87(2)(b) in the cell area.

PO Perceval stated that he never witnessed any officer use profanity toward § 87(2)(b)

PO Ingrao did not recall witnessing any specific interaction between § 87(2)(b) and PO Walsh in the stationhouse. He did not witness PO Walsh or any other officer use profanity toward § 87(2)(b) at the stationhouse. PO Ingrao did not witness any conversation between § 87(2)(b) and any officer regarding § 87(2)(b)’s medical condition.

PO Lane, although he did not specifically recall § 87(2)(b) stated that he did not witness PO Walsh use any profanity toward any prisoner in the cell area. He did not witness any officer use profanity toward any prisoner. He did not recall witnessing any specific interaction between PO Walsh and any prisoner.

§ 87(2)(g)

Allegation Q—Discourtesy: En route to § 87(2)(b), Police Officer Tony Cuoco spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated he was transported him to § 87(2)(b) in an RMP. En route to § 87(2)(b), he asked PO Cuoco to bring him to § 87(2)(b), the hospital he usually visited when he required medical attention. PO Cuoco responded, “That’s too far. Fuck that.” PO Cuoco then transported § 87(2)(b) to § 87(2)(b).

As noted above, PO Cuoco testified that EMS personnel responded to the 75th Precinct stationhouse and attended to § 87(2)(b) in the cell area, before PO Cuoco and the EMTs transported § 87(2)(b) to § 87(2)(b) in an ambulance. PO Cuoco rode in the rear of the ambulance with § 87(2)(b) and one of the EMTs. § 87(2)(b) fell asleep almost immediately after entering the rear of the ambulance and stayed asleep until they arrived at § 87(2)(b). PO Cuoco did not recall § 87(2)(b) requesting to be taken to any specific hospital. PO Cuoco believed this decision would be up to the EMTs. PO Cuoco never said to § 87(2)(b) “That’s too far. Fuck that.” He did not use any profanity toward § 87(2)(b) en route to the hospital.

The Pre-Hospital Care Report pertaining to § 87(2)(b)’s transport to § 87(2)(b) (Privileged Documents) revealed that § 87(2)(b) and § 87(2)(b) transported § 87(2)(b) and PO Cuoco from the stationhouse to § 87(2)(b) via ambulance.

EMT § 87(2)(b) (Board Review 37) did not recall the incident in question. He was shown the arrest photo of § 87(2)(b) but did not recognize § 87(2)(b). EMT § 87(2)(b) reviewed the Pre-Hospital Care Report pertaining to this incident. He stated that he did not remember the job in question. He was informed that a prisoner named § 87(2)(b) was transported from the 75th Precinct cells to § 87(2)(b), in the custody of the NYPD. EMT § 87(2)(b) was informed that PO Tony Cuoco of the 75th Precinct escorted § 87(2)(b). He was also shown a photo of PO Cuoco. He believed he recognized the face, but he did not have any specific recollection of any interaction with PO Cuoco. EMT § 87(2)(b) stated that based on the Pre-Hospital Care Report pertaining to this incident, he determined that he was the driver and EMT § 87(2)(b) was the technician, working with patients in the rear of the ambulance.

EMT § 87(2)(b) was informed that § 87(2)(b) claimed to have requested to be taken to § 87(2)(b), as it was his usual hospital. This information did not refresh EMT § 87(2)(b)’s recollection of the incident. EMT § 87(2)(b) was informed that § 87(2)(b) alleged that when he requested to be taken to § 87(2)(b), an NYPD officer said to him, “That’s too far. Fuck that.” EMT § 87(2)(b) did not recall any incident during which such an exchange took place. EMT § 87(2)(b) stated that some ambulances have windows behind the driver, allowing the driver to see and hear into the rear of the ambulance. EMT § 87(2)(b) prefers to have this window open when driving, but he did not know what sort of ambulance he was driving at the time of the incident and could not determine this from the Pre-Hospital Care Report. EMT § 87(2)(b) did not remember any incident occurring on or about March 18, 2016 when a member of the NYPD used profanity toward a prisoner. Such an incident would stand out

in EMT § 87(2)(b)'s memory, as they did not occur frequently. EMT § 87(2)(b) believed that if he witnessed a disagreement between a prisoner and a member of the NYPD, this might be recorded in the narrative portion of the Pre-Hospital Care Report.

EMT § 87(2)(b) (Board Review 38) did not recall the incident in question. He was informed that a prisoner named § 87(2)(b) was transported from the 75th Precinct cells to § 87(2)(b) in the custody of the NYPD. He was shown the arrest photo of § 87(2)(b) but he did not recognize § 87(2)(b). EMT § 87(2)(b) was informed that PO Tony Cuoco of the 75th Precinct transported § 87(2)(b) and was shown a photo of PO Cuoco. He was uncertain if he recognized him, as he often responded to the 75th Precinct stationhouse. EMT § 87(2)(b) estimated that he had responded to similar jobs roughly twelve times between March 18, 2016 and the date of his CCRB interview. EMT § 87(2)(b) reviewed the Pre-Hospital Care Report pertaining to this incident, but it did not refresh his recollection of the incident in question. EMT § 87(2)(b) referred to his overtime sheet, on his phone, which showed that he was working overtime at the time of the incident. This indicated to him that he was the technician and was in the rear of the ambulance dealing directly with patients. EMT § 87(2)(b) stated that in cases where there is a disagreement between prisoners and members of the NYPD or between prisoners and the EMTs, such that the patient may make a complaint of some sort, he notes this in the Pre-Hospital Care Report. He pointed out that he did not make any such note in the Pre-Hospital Care Report pertaining to this incident.

EMT § 87(2)(b) was informed that § 87(2)(b) alleged that when he requested to be taken to § 87(2)(b) an NYPD officer said to him, "That's too far. Fuck that." EMT § 87(2)(b) did not recall any incident during which such an exchange took place. He clarified that the decision regarding which hospital to go to is, per protocol, the decision of the EMTs, not the prisoner or members of the NYPD. EMT § 87(2)(b) stated that if a prisoner asked to be transported to § 87(2)(b) from the 75th Precinct stationhouse, he would accommodate this request, as § 87(2)(b) is near enough to the 75th Precinct stationhouse and the same distance from the 75th Precinct stationhouse as § 87(2)(b). EMT § 87(2)(b) believed that if a member of the NYPD used profanity in response to this manner of reasonable request, some sort of note pertaining to this disagreement would be included in the Pre-Hospital Care report, as described above. EMT § 87(2)(b) did not recall any incident on or about March 18, 2016 when a member of the NYPD used profanity toward a prisoner. Such an incident would stand out in EMT § 87(2)(b)'s memory, as they did not occur frequently.

§ 87(2)(g)

[REDACTED]

Squad: 1

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date